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BB  
circuitry for providing at least one data unit that includes a status bit; and

circuitry for analyzing the status bit and for requesting a change in a data rate used to exchange the plurality of data units.

A2  
conclude  
16. (New) The communication network of claim 15, wherein the mobile terminal and the network element further comprise circuitry for exchanging the plurality of data units using time slots, and wherein the data rate is changed by changing the number of time slots.

17. (New) The communication network of claim 15, wherein the circuitry for providing at least one data unit that includes a status bit is part of the network element.

18. (New) The communication network of claim 15, wherein the circuitry for analyzing the status bit and for requesting a change in a data rate is part of the mobile terminal.

#### REMARKS

Claims 1-11 remain in the application. Claims 12-18 are newly added. Claim 7 has been amended to correct a typographical error in its dependency.

The Drawings were objected to because Figures 2, 4, and 9 failed to show explanatory legends. Figures 2, 4, and 9 have been amended, as shown on the attached copies in red, to include explanatory legends.

A marked-up version of the rewritten claims is attached hereto.

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Claims 1-4, 6, and 8-11 were rejected under 35 USC 102(e) as being anticipated by Suzuki (US 6,044,067).

Claim 1 is directed to a mobile terminal and a method for communicating with a network element. Communication data is divided into data units (60) that include at least one user data element (61) and at least one status data element (62). The status data element includes a status indication (63) from the mobile network element (IWF) to the mobile terminal (MS). The mobile terminal comprises detecting means (96) for detecting a need for bearer modification from received status indications in at least two consecutive data units and control means (91) for initiating a negotiation for bearer modification, as a response to the detected need for bearer modification.

Applicants respectfully submit that in Suzuki, the mobile terminal does not detect the need for bearer modification.

In the present invention the mobile terminal is arranged to analyze the received data flow and, using the existing information therein, to decide whether the correct radio resource is used for the transmission or not. If the radio resource is insufficient, the mobile terminal will initiate negotiations for radio resource upgrading. If the radio resource is excessive, the mobile terminal will initiate negotiations for radio resource downgrading.

Suzuki discloses detecting interference between a base station and a mobile terminal caused by communication in another cell. The base station measures the interference of other cells and if the interference reaches a predetermined level, the base station informs the "interfering" base station by ground communication which then lowers the communication rate of the interfering

source (See column 17, lines 3-12). Alternately, the mobile terminal may measure the power of a signal from an adjacent base station B, determine the interference power, and transmit the measurement result to its own base station A to reduce the transmission rate under the control of base station A (See column 17, lines 45-60, cited in the Office Action).

Thus, Suzuki fails to disclose that a need for bearer modification is detected from status indications in data being communicated from a network element to a mobile station.

In Suzuki, a base station lowers communication rates as a result of interference from another base station. On the basis of an interference measurement made by either the base station or the mobile terminal, a control data is formed and added to a transmission data. The base station A receives the transmission data from the base station B or from the mobile terminal and detects said control data from it. The transmission data is a phase-modulated data, changing on a plane formed by an I-axis and a Q-axis orthogonal to each other, i.e., the data changing along a circle on a plane as shown in Figure 8 of Suzuki. Thus, Suzuki lowers communication rates based on interference, not from status indications in the transmitted data.

Furthermore, Suzuki fails to teach or suggest a mobile terminal having a means to detect such status indications. As such, Suzuki fails to teach a mobile terminal having "detecting means for detecting a need for bearer modification from received status indications in at least two consecutive data units" as claimed in present claim 1.

Neither does Suzuki teach that the mobile terminal further includes "control means for initiating a negotiation for bearer

modification as a response to the detected need for bearer modification" as claimed in claim 1.

At least for these reasons, Applicants respectfully submit that Suzuki fails to anticipate claim 1.

Claims 2-10 depend directly or indirectly from claim 1 and therefore are also not anticipated by claim 1.

Claim 11 is a method claim directed to similar subject matter, and therefore, for the same reasons supporting claim 1, Applicants submit that claim 11 is also patentable over Suzuki.

Claims 5 and 7 were rejected under 35 USC 103(a) as being unpatentable over Suzuki.

Claims 5 and 7 depend from claim 1, and therefore are patentable over Suzuki for the same reasons argued above in favor of claim 1.

In addition, claim 7 recites that the detecting means includes a counter that is incremented in response to a data unit including an indication of flow control that is preceded by a data unit that also includes an indication of flow control. There is no disclosure in Suzuki related to such a detecting means.

Claim 12 is newly added and is directed to a method of communication between a network element and a mobile terminal in a communication network. The method includes exchanging a plurality of data units between the network element and the mobile terminal, wherein at least one data unit includes a status bit. The method also includes analyzing the status bit, and requesting a change in a data rate used to exchange the plurality of data units.

Claim 13 depends from claim 12 and further recites that the plurality of data units are exchanged using a number of time slots, and the data rate is changed by changing the number of time slots.

Claim 14 also depends from claim 12 and recites that the mobile terminal analyses the status bit and requests the change in data rate.

Claims 15-18 are apparatus claims directed to subject matter similar to claims 12-14.

Suzuki fails to teach or suggest the features of these new claims.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

A check in the amount of \$84.00 is enclosed for the additional claim fees. The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

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8/8/2002  
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Person Making Deposit



Application No.: 09/397,300

**Marked Up Claim(s)**

7. (Amended) A mobile terminal as claimed in claim 56, wherein said detecting means (96) comprises a counter (CT) arranged to be incremented as a response to a data unit (60) that comprises said indication (Flbit) of flow control and is preceded by a data unit (60) that also comprises said indication (Flbit) of flow control.

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